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DIRECT TAXES

IRES – Deductibility of Interest Expenses – Loans Secured by Mortgages on Real Estate Subject to Surface Rights Granted to Third Parties – Full Deductibility of Interest Not Applicable (Italian Revenue Agency Ruling No. 110 of April 16, 2025)

With ruling no. 110 dated April 16, 2025, the Italian Revenue Agency clarified that the granting of surface rights in favor of third parties in exchange for a fee is not equivalent to a lease for the purposes of deducting interest expenses incurred by IRES taxpayers under Art. 1, para. 36 of Law 244/2007.

The specific case concerns a company that acquires land through loans secured by mortgages, with remuneration represented by interest paid at market rates.

On the acquired land, it intends to grant fixed-term surface rights (typically 20 years) to third parties operating in the renewable energy sector. These third parties will install photovoltaic panels to produce electricity and will pay a periodic fee in return.

Deductibility of Interest Expenses for Real Estate Management Companies

Under Art. 90 of the TUIR, expenses and other negative components related to "patrimonial" real estate are not deductible. An exception to this rule applies to interest expenses:

Art. 1, para. 35 of Law 244/2007 provides an interpretive clarification (Revenue Agency Circulars no. 19 of April 21, 2009, § 2.2.5 and no. 37 of July 22, 2009), stating that:

- Interest on loans contracted for the construction or purchase of real estate under Art. 90, para. 1 of the TUIR is deductible under Art. 96 of the TUIR;
- Operating interest expenses are fully non-deductible under Art. 90, para. 2 of the TUIR.

Moreover, Art. 1, para. 36 of Law 244/2007 provides that certain interest expenses are fully deductible without applying the limitations under Art. 96 of the TUIR. Specifically, interest on loans secured by mortgages on real estate **intended for leasing** is not subject to Art. 96 and is fully deductible.

This provision was initially repealed at the end of 2018 (effective from January 1, 2019) but the repeal was subsequently revoked by Law 145/2018 (Budget Law 2019) before it took effect. Therefore, full deductibility continued to apply from the 2019 tax year onward.

Additionally, Art. 4, para. 4 of Legislative Decree 147/2015 clarified the **subjective scope** of the provision, specifying that:

- It applies to companies whose main and actual activity is real estate management;
- Such companies are those whose asset value is primarily composed of the normal value of leased real estate, and whose revenues are at least two-thirds derived from lease payments or rentals of businesses whose total value is mostly made up of the normal value of buildings.

Requirement That Real Estate Be Intended for Leasing

As to the condition that real estate must be “**intended for leasing**” to qualify for full interest deductibility under Art. 1, para. 36 of Law 244/2007, the Revenue Agency notes that this is **not met** in the case of the granting of surface rights.

Surface rights are a type of real right governed by Articles 952–956 of the Italian Civil Code, allowing a third party to construct above or below the surface of a property.

Therefore, **leasing cannot be equated** with the granting of surface rights.

The law expressly refers to leasing to determine the purpose of the property and **excludes the use of similar or analogous legal instruments** for the purpose of full interest deductibility.

As a result, the specific leasing requirement is **not met** in the case addressed in Ruling No. 110/2025, since the mortgaged real estate will be the object of a **surface rights agreement** rather than a lease.

References:

- Art. 1, para. 36 of Law No. 244 of December 24, 2007
- Art. 96 of Presidential Decree No. 917 of December 22, 1986 (TUIR)
- Italian Revenue Agency Ruling No. 110 of April 16, 2025
- *Il Quotidiano del Commercialista*, April 17, 2025 – “Interest Expenses on Real Estate Specifically Leased Fully Deductible” – Sanna
- *Eutekne Guides – Direct Taxes* – “Interest Expenses – Business Income” – Sanna S.

TAX ASSESSMENT

Assessments and Controls – Synthetic Indexes of Tax Reliability (ISA) – Application for the 2024 Tax Year – Definition of the Preferential Regime (Italian Revenue Agency Provision No. 176203 of April 11, 2025)

Provision no. 176203 of April 11, 2025, issued by the Italian Revenue Agency, confirmed the application of the tax reliability scores for the 2024 tax year in order to access the benefits provided by the **ISA preferential regime** (Art. 9-bis, para. 11 of Decree Law 50/2017), including the option of indicating additional positive components in the tax return.

As in previous years, in order to reward consistently reliable behavior over time, the access to benefits is based on:

- the ISA score for the relevant year (2024);
- or alternatively, the **average ISA score** of 2024 and the preceding year (2023).

Scope of Application

The preferential regime applies if the taxpayer performs (or predominantly performs) an activity for which a specific ISA applies, and if the ISA is effectively applied. According to consistent practice of the Revenue Agency, taxpayers are excluded from the benefits if, due to the presence of an exclusion cause in the relevant tax year:

- they do not submit the ISA form; or
- they submit it for statistical purposes only, or solely for data collection necessary for future ISA processing.

It is not permitted to waive an exclusion cause to gain access to the preferential regime, as the ISA result would not be deemed reliable in such cases (Revenue Agency Circular no. 16 of June 16, 2020, § 8.1).

If both business income and self-employment income are earned in a given year, benefits may be accessed if:

- the taxpayer applies the relevant ISA for both income categories (where applicable); and
- each ISA score, even on a multi-year basis, is equal to or above the minimum threshold required for the benefit.

Exemption from Certification or Guarantee Requirements

If the ISA score is at least **9**, either for the 2024 tax year or as a simple average of the 2023 and 2024 scores, the following benefits apply:

- exemption from the **certified auditor's stamp (visto di conformità)** on the annual return for compensating tax credits of up to €70,000 for VAT (accrued in 2025) and up to €50,000 for direct taxes and IRAP (accrued in 2024);
- exemption from the certification requirement for interim VAT credit offsets (first three quarters of 2026), up to €70,000 per year;
- exemption from both certification and guarantee requirements for VAT refund requests for 2025, up to €70,000;
- exemption from both certification and guarantee requirements for interim VAT refund requests (first three quarters of 2026), up to €70,000.

If the ISA score is **at least 8** for 2024, or **at least 8.5** as an average of 2023 and 2024, the same benefits apply **with lower thresholds**:

- up to €50,000 for VAT credits;
- up to €20,000 for direct tax and IRAP credits.

Exemption from the Non-Operational Company Rules and Synthetic Income Assessment

If the ISA score is **at least 9**, either for 2024 alone or as an average of 2023 and 2024, the taxpayer may also benefit from:

- exemption from the **non-operational company rules**;
- exemption from **synthetic determination of income** for 2024, provided that the assessed total income does not exceed the declared income by more than two-thirds.

Protection Against Presumptive Assessments

If the ISA score is **at least 8.5** in 2024, or **9 as an average** of 2023 and 2024, the taxpayer is protected from assessments based on simple presumptions for the 2024 tax year.

Reduced Assessment Time Limits

A tax reliability level of **at least 8** for 2024 results in a **one-year reduction** of the statutory time limits for tax assessments relating to business and self-employment income.

Biennial Preventive Agreement (Concordato Preventivo Biennale)

ISA taxpayers who participate in the **biennial preventive agreement** by completing section P of the ISA form will benefit from the **ISA preferential regime** regardless of their ISA score (Art. 19, para. 3 of Legislative Decree 13/2024; see Revenue Agency FAQs dated October 25, 2024, and February 24, 2025).

References:

- Art. 19 of Legislative Decree No. 13 of February 12, 2024
- Art. 9-bis of Decree Law No. 50 of April 24, 2017
- Revenue Agency Provision No. 176203 of April 11, 2025
- Revenue Agency FAQs of February 24, 2025, and October 25, 2024
- *Il Quotidiano del Commercialista*, April 12, 2025 – "ISA Scores Defined for the Preferential Regime" – Rivetti
- *Il Sole 24 Ore*, April 12, 2025, p. 25 – "Concordato Participation Unlocks ISA Benefits" – Cerofolini M., Pegorin L.
- *Italia Oggi*, April 12, 2025, p. 24 – "ISA, Massive Data Submission by the Tax Authority" – Poggiani F.
- *Eutekne Guides – Assessments and Penalties* – "Synthetic Tax Reliability Indexes – Preferential Regime" – Rivetti P.

INDIRECT TAXES

Inheritance and Gift Tax – Updates from Legislative Decree No. 139/2024 – Operational Instructions for Tax Offices (Italian Revenue Agency Circular No. 3 of April 16, 2025)

With Circular No. 3 of April 16, 2025, the Italian Revenue Agency provided tax offices with operational guidance to ensure consistent implementation of the inheritance and gift tax reform introduced by Legislative Decree No. 139 of September 18, 2024.

In the document, the tax authority reviewed the main amendments made to Legislative Decree No. 346/1990 (Consolidated Law on Inheritance and Gift Tax), highlighting both new provisions and those codifying principles already established in practice or jurisprudence.

Effective Date of the New Rules

Circular 3/2025 reminds that, under Art. 9, paragraph 3 of Legislative Decree 139/2024, the new rules apply to **successions opened and gifts made from January 1, 2025, onward**.

Self-Assessment of Inheritance Tax

Among the most significant innovations, the Agency noted the introduction of a **self-assessment mechanism** for inheritance tax, based on the data reported in the inheritance declaration. Tax offices retain the right to verify accuracy and, within two years of filing the declaration, may issue a notice of assessment for any additional tax due.

The self-assessed tax must be paid **within 90 days** from the deadline to file the inheritance declaration (i.e. within **12 months from the date of death plus 90 days**).

The circular also recalls the content of **Resolution No. 2/2025**, which introduced specific tax codes for the payment of amounts due under the new regime.

Early Release of Bank Accounts Before Filing the Inheritance Declaration

The Agency clarified the application of the new **paragraph 4-bis of Art. 48 of Legislative Decree 346/1990**, which allows a sole heir **over the age of 26** to request the release of bank accounts before filing the inheritance declaration, but **only to the extent necessary to pay cadastral, mortgage, and stamp duties**.

Key clarifications include:

- The condition of being the **sole heir** is met even if other heirs have renounced their inheritance before the date of the request;
- The **age requirement** is considered fulfilled if the heir has **not yet turned 26** or has **just turned 26 on the date of the request**;
- The **cadastral category** of the real estate included in the estate is **irrelevant** for applying the provision;
- The **release of assets cannot be used** to pay taxes **other than those expressly listed**, such as inheritance tax itself.

Rates and Exemptions

Circular 3/2025 also highlights the **transposition of rules on rates and exemptions** from Art. 2 of Decree Law 262/2006 (now repealed) into **Articles 7 and 56** of Legislative Decree 346/1990.

Other Key Aspects of the Reform

The Agency also emphasized several additional updates, including:

- The **explicit inclusion of transfers from trusts** as taxable under inheritance and gift tax;
- Amendments to **Art. 6(1)** of Legislative Decree 346/1990 regarding identification of the competent office for tax assessment;
- The **explicit repeal of the inheritance aggregation rule (coacervo successorio)**, while maintaining the **gift aggregation rule** only to assess the erosion of exemption thresholds due to prior gifts;
- Rules for **assessing indirect gifts**, permitted **only when declared by the taxpayer during the audit of other taxes**, as provided by **Art. 56-bis of Legislative Decree 346/1990**.

Penalties Reform

The circular also references **Art. 4 of Legislative Decree No. 87/2024**, which introduced several amendments to the penalty regime for violations related to inheritance and gift taxes. These changes apply to violations committed from **September 1, 2024**.

References:

- Art. 1 of Legislative Decree No. 139 of September 18, 2024
- Legislative Decree No. 346 of October 31, 1990
- Italian Revenue Agency Circular No. 3 of April 16, 2025
- Italian Revenue Agency Resolution No. 2 of January 10, 2025
- *Il Quotidiano del Commercialista*, April 17, 2025 – "Tax Offices Called to Ensure Consistency After the Inheritance Tax Reform" – Novella
- *Il Sole 24 Ore*, April 17, 2025, p. 37 – "Indirect Gifts Taxable Only if Detected Through Audits" – Busani A.
- Summary Sheet No. 1426.01, Update 10/2024 – "Inheritance and Gift Tax Reform – Key Updates from Legislative Decree 139/2024" – Mauro, Novella

TAX SETTLEMENT FRAMEWORK

Biennial Advance Agreement (CPB) – Scope of Application (Italian Revenue Agency Rulings Nos. 102, 108, and 109 of April 15–16, 2025)

The scope of the **Biennial Advance Agreement (Concordato Preventivo Biennale, or CPB)** has been clarified through several rulings issued by the Italian Revenue Agency, particularly in relation to the requirement of applying the synthetic index of tax reliability (ISA), the relevant access conditions, and exclusion criteria.

Application of ISA

The **preliminary condition** to be eligible for a CPB proposal is that the business or professional activity carried out must fall under an **approved ISA**, which must be **effectively applied** without any exclusion criteria being triggered. This requirement derives from **Article 10 of Legislative Decree No. 13/2024**, which refers to “taxpayers engaged in business, arts, or professions who apply the synthetic indices of tax reliability.”

Merely attaching the CPB form to the ISA model does **not** suffice for eligibility. The CPB is **not available** in cases where the ISA form is filed **solely for statistical purposes** or for **data collection** aimed at future development of the ISAs.

In practical terms, in order to adhere to a CPB covering, for example, the 2025–2026 biennium:

- **No ISA exclusion causes** must apply, and
- The relevant **ISA data disclosure** must be properly completed and attached to the **REDDITI 2025 tax return**.

Exclusion Case – Corporate Transformation

In **Ruling No. 109 of April 16, 2025**, the Revenue Agency denied the possibility to join the 2024–2025 CPB to a company that, in **November 2022**, had undergone a **transformation from a general partnership (SNC) to a limited liability company (SRL)**, simultaneously extending the duration of the first tax year from 12 to 13 months pursuant to **Art. 76(2) of the Italian Income Tax Code (TUIR)**.

According to the Agency, the case falls under the **ISA exclusion cause** outlined in **Art. 9-bis(6)(a) of Decree Law No. 50/2017**, which refers to **the commencement or cessation of an activity**. Therefore, the taxpayer in question:

- **Does not apply the ISA;**
- **Is not required to submit** the corresponding ISA form;
- **Is not eligible** for the ISA-based preferential tax regime;
- **Cannot join** the CPB proposal for the following biennium.

This position aligns with previous guidance (Revenue Agency Circular No. 17 of August 2, 2019, §4), where it was clarified that **events exceeding the ordinary course of business**, such as **extraordinary transactions** (transformations, mergers, demergers, contributions, transfers, and liquidations), as well as **business purchases, leases, inheritance, or donations**, are to be considered instances of business commencement or cessation for ISA exclusion purposes.

References:

- Art. 10 of Legislative Decree No. 13 of February 12, 2024
- Art. 9-bis(6)(a) of Decree Law No. 50 of April 24, 2017
- Italian Revenue Agency Rulings:
 - No. 102 of April 15, 2025
 - No. 108 and No. 109 of April 16, 2025
- Italian Revenue Agency Circular No. 17 of August 2, 2019

TAX SETTLEMENT FRAMEWORK

Biennial Advance Agreement (CPB) – Conditions for Access

(Reference: Legislative Decree No. 13/2024, Revenue Agency Rulings Nos. 102, 108, 109 of April 2025)

According to **Art. 11(1)(b-bis)** of Legislative Decree No. 13/2024, **taxpayers are excluded from the CPB** if, in the tax period preceding the two years covered by the CPB proposal, they earned—through business or professional activity—income or income components (by any name), **entirely or partially exempt, excluded, or non-taxable**, exceeding **40% of their total business/professional income**.

Patent Box Regime

In Ruling No. 108 of April 16, 2025, the Italian Revenue Agency clarified that application of the **new Patent Box regime** (under Art. 6 of Decree Law No. 146/2021) **does not preclude CPB access**. This is because the tax benefit consists of an **increase in deductible costs**, rather than a direct income exclusion—thus, the income would still have been fully taxable before the deduction.

Corporate Restructuring and Shareholding Changes

Art. 21 of Legislative Decree No. 13/2024 outlines further CPB exclusion cases, including:

- entities involved in **mergers, demergers, or business contributions**, and
- partnerships (or associations under Art. 5 of the Income Tax Code – TUIR) that have **changes in membership** resulting in an **increase in the number of partners**, except in the event of succession involving multiple heirs.

However, in **Ruling No. 102 of April 15, 2025**, the Agency specified that a **limited liability company (SRL)** participating in the 2024–2025 CPB does **not cease participation** if its sole shareholder **transfers or contributes all of their shares** to another company.

This case does **not trigger the CPB exclusion conditions** under Art. 21(1)(b-ter) of the Decree:

- The SRL itself is **not a party to the transfer/contribution**, as only its shares are transferred.
- The change in ownership structure applies **only to partnerships** (Art. 5 of TUIR), and not to **SRLs**, which are corporate entities.

SOCIAL SECURITY – FAMILY POLICIES

Newborn Bonus – Budget Law 2025 (Law No. 207/2024)

(INPS Circular No. 76 of April 14, 2025, and Message No. 1303 of April 16, 2025)

INPS has issued operational guidance on the “**Newborn Bonus**” introduced by **Art. 1(206) of Law No. 207 of December 30, 2024**. The benefit amounts to **€1,000, paid once per child** (born or adopted on or after January 1, 2025) upon application.

Eligibility Requirements

To qualify, applicants must meet all of the following conditions:

- **Italian citizenship;**
- **Residence in Italy** (from the date of birth/adoption until the date of application);
- **Household economic condition:** the household’s **ISEE** must not exceed **€40,000 annually**, excluding the Universal Child Allowance from the calculation;
- **Date of birth, adoption, or pre-adoptive foster care** must be on or after **January 1, 2025**.

Adoption and Foster Care

- For **adoptions**, the child must be a **minor**.
- In the case of **pre-adoptive foster care**, the relevant date is the **child’s entry into the adoptive household**, as ordered by the Juvenile Court (per Art. 22(6) of Law No. 184/1983).
- For **international adoptions**, the relevant date is the **registration of the adoption decree** in the Italian civil registry.
- As an **initial implementation rule**, children adopted from January 1, 2025, under **pre-adoptive orders issued before that date**, are also eligible—based on the **final adoption decree date**.

Application Procedure

Only **one parent** may submit the application. In cases of **non-cohabiting parents**, the parent **living with the child** must apply. If the parent is a **minor or legally incapacitated**, the application must be submitted by their **legal guardian** or the parent holding **parental responsibility**.

Deadlines:

- For births/adoptions **after April 17, 2025**: within **60 days** of the event;
- For those **before April 17, 2025**: by **June 16, 2025**.

How to Apply:

- INPS web portal (requires SPID level 2 or higher, CIE 3.0, CNS, or eIDAS);
- INPS mobile app (functionality to be released via a future INPS message);
- Multichannel Contact Center;
- Authorized **Patronato institutes**.

Applicants must **self-certify** compliance with eligibility criteria under **DPR No. 445/2000**, and select a **payment method** (IBAN-linked account or postal transfer) when submitting the application.

SOCIAL SECURITY – FAMILY POLICIES

Newborn Bonus – Payment Procedure

(Ref: Art. 1, paragraphs 206–208, Law No. 207 of 30.12.2024, INPS Circular No. 76/2025)

The **€1,000 newborn bonus** is **paid out once** by INPS and follows the **chronological order of accepted applications, within the limits of the annual budget allocation** in the year in which the application is submitted.

TAX – DIRECT TAXES – DEDUCTIBLE EXPENSES

University Tuition Fees – Maximum Deductible Amounts for Non-State Universities (Tax Year 2024) (Ref: Ministerial Decree of 20.12.2024 No. 1924)

Pursuant to the amendment introduced by **Art. 1, para. 954(b)** of Law No. 208/2015 to **Art. 15(1)(e)** of the Income Tax Code (TUIR), a **19% personal income tax (IRPEF) deduction** applies to expenses incurred for attending university courses at:

- **State universities;**
- **Non-state universities, within the annual limits** set by the Ministry of University and Research (MUR), based on the average fees of state universities, and differentiated by faculty and geographic area.

Maximum Deductible Amounts for Tax Year 2024

For non-state universities, the deductible ceiling (at 19%) for tuition and enrollment fees remains unchanged from 2023, 2022, and 2021, and is structured as follows: